

Leveraging vs. Lawyering

While the anti-union movement in this country often takes spectacular forms, like the ongoing assault against public employees in Wisconsin and elsewhere, a steward sees the same anti-union campaign from a unique viewpoint: in the trenches. Grievances that were once routinely resolved are now challenged and dragged out. Supervisors who once had the authority to settle departmental issues now bump grievances up to the next step, delaying the process and increasing the expenses for the union. For many stewards, the sense of lost power (and respect) is overwhelming and frustrating.

An inexperienced steward will simply either give up or will keep processing grievances in the same way, violating Einstein's Law of Insanity: doing the same thing over and over again and expecting different results. Sharp and experienced stewards, on the other hand, look for new ways to deal with this anti-unionism, but often end up at the crossroads of two methods: "lawyering" or "leverage."

Lawyering: Not Always the Answer

Lawyering involves a focus on proper procedures, on logic, presentation and documentation, as if a grievance hearing were a debate. One union advertises a steward training as offering "Critical thinking in order to develop a winning grievance argument that legendary orator Clarence Darrow would be proud to make." Another asserts that dealing with a grievance "in a professional way" helps guarantee that the union will prevail.

Lawyering also includes resorting to outside laws—the National Labor Relations Act, provincial laws or one of the dwindling number of public sector bargaining laws—which seem so absolute: An employer cannot legally fire a steward. An employer cannot legally refuse to process a grievance. A steward must be treated as an equal. Stewards, after all, have legal rights, don't they? You know, the Equality Principle?

There is an extra attraction in lawyering for any steward who is involved in the servicing model of union: Someone else will do the work. Lawyers or agents of the respective labor boards will investigate, follow up on the charges and make sure that justice is speedily done while the steward goes on with life as usual. No muss, no fuss, no risk.

It's a Question of Power

Not. In fact, grievances are not debates about legal issues between equals—they are a reflection of the constantly shifting power between the union and the employer. The stronger the union, the better the grievances go. One union officer I encountered was reluctant to give a simple Q & A about a steward's legal rights because he knew the realities of the National Labor Relations Board: While the law seems clear, its enforcement is chancy and, at best, can take years—all during which a steward who thought she was equal to her foreman when conducting union business is out on the street. So much for the Equality Principle.

Leverage, on the other hand, requires a steward to join the Union TEA (Time, Effort, Aggravation) Party because an organization has to be built up to support the fight on a particular issue. Many stewards simply do not comprehend leverage—the power to force the boss to do what he doesn't want to do, whether it is settling grievances or accepting an ambitious union contract, by the sheer strength and unity of the workers. In fact, a good union slogan could be "Get Leverage or Go Home."

Building leverage involves focusing all of the members on all of the grievances so that a member who feels untouched by a discipline, for example, can understand

that a discipline to one could be a discipline to all.

Be Able to Get the Word Out

It is discouraging—in this age of instant communications—to find out how few stewards are able to quickly get The Word out to their members.

Communication is a fundamental part of developing leverage. A steward should diligently work on getting personal contact information from every co-worker, especially since the union's legal use of

the employer's equipment—computers and e-mail systems—is so uncertain today. Build this system well in advance of a crisis by sending out meeting notices, social activities, or birthday notices, but make sure that the structure—like a hurricane warning system—is up and running when you really need it.

Does this take Time? Yes, it does. But in the long run it is a worthwhile investment. Does it take Effort? Some, but a good steward will recruit helpers to gather the information, a process that not only reduces the time and trouble for the steward but draws new members into active union participation. Does it take Aggravation? Probably. Some members will grumble about giving out personal contact information, but you can bet they are the same folks with 5,000 friends on Facebook who know what the grumbler had for breakfast.

All of this is not to encourage a steward to ignore the laws. Legal support can be very helpful. But relying on the legal structure as the only method of enforcing your union contract is like fighting with one hand tied behind your back. Look at the history of your grievances over the past, say, six months to see if you have done as well as you want. If not, it's time for a change in approach.

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